

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

SCOTT DAVID SAUNDERS, M.D.

Respondent.

Case No. 05-2000-106555

OAH No. L2001080786

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 2, 2002.

It is so ORDERED October 30, 2002.



FOR THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 MIA PEREZ-CASTILLE, State Bar No. 203178
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-7007
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6 Attorneys for Complainant

7 **BEFORE THE**
8 **DIVISION OF MEDICAL QUALITY**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 SCOTT DAVID SAUNDERS, M.D.

14 Respondent.

Case No. 05-2000-106555

OAH No. L2001080786

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Ron Joseph (Complainant) is the Executive Director of the Medical Board
21 of California. He brought this action solely in his official capacity and is represented in this
22 matter by Bill Lockyer, Attorney General of the State of California, by Mia Perez-Castille,
23 Deputy Attorney General.

24 2. Respondent Scott David Saunders, M.D. (Respondent) is represented in
25 this proceeding by attorney Robert F. Hahn, whose address is Law Offices of Gould & Hahn,
26 5801 Christie Avenue, Suite 385, Emeryville, California 94608.

27 3. On or about May 14, 1994, the Medical Board of California issued
28 Physician's and Surgeon's Certificate Number G 78847 to Scott David Saunders, M.D.
(Respondent). The Certificate was in full force and effect at all times relevant to the charges

1 brought in Accusation No. 05-2000-106555 and will expire on September 30, 2003, unless
2 renewed.

3 JURISDICTION

4 4. Accusation No. 05-2000-106555 was filed before the Division of Medical
5 Quality (Division), Medical Board of California, Department of Consumer Affairs, and is
6 currently pending against Respondent. The Accusation and all other statutorily required
7 documents were properly served on Respondent on July 31, 2001. Respondent timely filed his
8 Notice of Defense contesting the Accusation. A copy of Accusation No. 05-2000-106555 is
9 attached as exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in Accusation No. 05-2000-106555. Respondent has
13 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
14 Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
18 the right to present evidence and to testify on his own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent understands that the charges and allegations in Accusation
26 No. 05-2000-106555, if proven at a hearing, constitute cause for imposing discipline on his
27 Physician's and Surgeon's Certificate Number G 78847.

28 9. For the purpose of resolving the Accusation without the expense and

uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

10. Respondent agrees that his Physician's and Surgeon's Certificate Number G 78847 is subject to discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Division of Medical Quality, Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Division may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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1 time request information from PACE regarding the Respondent's participation in PACE and/or
2 information derived therefrom. The Division may order Respondent to undergo additional
3 education, medical and/or psychological treatment based upon the recommendations received
4 from PACE.

5 Upon approval of the recommendation by the Division or its designee,
6 Respondent shall undertake and complete the recommended and approved PACE Program. At
7 the completion of the PACE Program, Respondent shall submit to an examination on its contents
8 and substance. The examination shall be designed and administered by the PACE Program
9 faculty. Respondent shall not be deemed to have successfully completed the program unless he
10 passes the examination. Respondent agrees that the determination of the PACE Program faculty
11 as to whether or not he passed the examination and/or successfully completed the PACE Program
12 shall be binding.

13 Respondent shall complete the PACE Program no later than six months after his
14 initial enrollment unless the Division or its designee agrees in writing to a later time for
15 completion.

16 If Respondent successfully completes the PACE Program, including the
17 examination referenced above, he agrees to cause the PACE Program representative to forward a
18 Certification of Successful Completion of the program to the Division or its designee. If
19 Respondent fails to successfully complete the PACE Program within the time limits outlined
20 above, he shall be suspended from the practice of medicine.

21 Failure to participate in, and successfully complete all phases of the PACE
22 Program, as outlined above, shall constitute a violation of probation.

23 2 PACE PRESCRIBING PRACTICES COURSE Within sixty (60) days of
24 the effective date of this decision, Respondent shall enroll in the PACE Program Prescribing
25 Practices Course, and shall successfully complete the course during the first year of probation.

26 3. MEDICAL RECORD KEEPING COURSE Within ninety (90) days of
27 the effective date of this decision, Respondent shall enroll in the PACE Program Medical Record
28 Keeping Course and shall successfully complete the course during the first year of probation.

1 4. EDUCATION COURSE Within ninety (90) days of the effective date of
2 this decision, and on an annual basis thereafter, Respondent shall submit to the Division or its
3 designee for its prior approval an educational program or course to be designated by the Division
4 or its designee which shall be aimed at correcting any areas of deficient practice or knowledge
5 which shall not be less than 16 hours per year, for each year of probation. This program shall be
6 in addition to the Continuing Medical Education (CME) requirements for re-licensure.
7 Following the completion of each course, the Division or its designee may administer an
8 examination to test Respondent's knowledge of the course. Respondent shall provide proof of
9 attendance for 41 hours of continuing medical education for each year of probation of which 16
10 hours were in satisfaction of this condition and were approved in advance by the Division or its
11 designee.

12 5. OBEY ALL LAWS Respondent shall obey all federal, state and local
13 laws, all rules governing the practice of medicine in California, and remain in full compliance
14 with any court ordered criminal probation, payments and other orders.

15 6. QUARTERLY REPORTS Respondent shall submit quarterly
16 declarations under penalty of perjury on forms provided by the Division, stating whether there
17 has been compliance with all the conditions of probation.

18 7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
19 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
20 at all times, keep the Division informed of his business and residence addresses which shall both
21 serve as addresses of record. Changes of such addresses shall be immediately communicated in
22 writing to the Division. Under no circumstances shall a post office box serve as an address of
23 record, except as allowed by Business and Professions Code section 2021(b).

24 Respondent shall, at all times, maintain a current and renewed physician's and
25 surgeon's license.

26 Respondent shall also immediately inform the Division, in writing, of any travel
27 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
28 than thirty (30) days.

1 8. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
2 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
3 Division, its designee or its designated physician(s) upon request at various intervals and with
4 reasonable notice.

5 9. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
6 STATE NON-PRACTICE In the event Respondent should leave California to reside or to
7 practice outside the State or for any reason should Respondent stop practicing medicine in
8 California, Respondent shall notify the Division or its designee in writing within ten (10) days of
9 the dates of departure and return or the dates of non-practice within California. Non-practice is
10 defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in
11 any activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
12 spent in an intensive training program approved by the Division or its designee shall be
13 considered as time spent in the practice of medicine. A Board-ordered suspension of practice
14 shall not be considered as a period of non-practice. Periods of temporary or permanent residence
15 or practice outside California or of non-practice within California, as defined in this condition,
16 will not apply to the reduction of the probationary order.

17 10. COMPLETION OF PROBATION Upon successful completion of
18 probation, Respondent's certificate shall be fully restored.

19 11. VIOLATION OF PROBATION If Respondent violates probation in any
20 respect, the Division, after giving Respondent notice and the opportunity to be heard, may revoke
21 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
22 revoke probation is filed against Respondent during probation, the Division shall have continuing
23 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
24 is final.

25 12. COST RECOVERY The Respondent is hereby ordered to reimburse the
26 Division the amount of \$4,681.58 within ninety (90) days of the effective date of this decision
27 for its investigative and prosecution costs. Failure to reimburse the Division's cost of
28 investigation and prosecution shall constitute a violation of the probation order, unless the

1 Division agrees in writing to payment by an installment plan because of financial hardship. The
2 filing of bankruptcy by the Respondent shall not relieve the Respondent of his responsibility to
3 reimburse the Division for its investigative and prosecution costs.

4 13. PROBATION COSTS Respondent shall pay the costs associated with
5 probation monitoring each and every year of probation, as designated by the Division, which are
6 currently set at \$2,488.00 but may be adjusted on an annual basis. Such costs shall be payable to
7 the Division of Medical Quality and delivered to the designated probation surveillance monitor
8 no later than January 31 of each calendar year. Failure to pay costs within 30 days of the due
9 date shall constitute a violation of probation.

10 14. LICENSE SURRENDER Following the effective date of this decision, if
11 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
12 the terms and conditions of probation, Respondent may voluntarily tender his certificate to the
13 Board. The Division reserves the right to evaluate the Respondent's request and to exercise its
14 discretion whether to grant the request, or to take any other action deemed appropriate and
15 reasonable under the circumstances. Upon formal acceptance of the tendered license,
16 Respondent will not longer be subject to the terms and conditions of probation.

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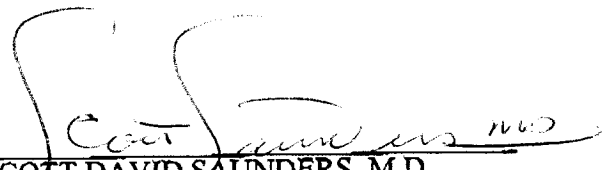
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert F. Hahn. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate Number G 78847. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and ~~intelligently~~, and agree to be bound by the Decision and Order of the Division of Medical Quality, Medical Board of California.

DATED: 29 May 2002
SCOTT DAVID SAUNDERS, M.D.
Respondent

I have read and fully discussed with Respondent Scott David Saunders, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6-14-02
ROBERT F. HAHN
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: 6/27/02.

BILL LOCKYER, Attorney General
of the State of California


MIA PEREZ-CASTILLE
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03573160-LA2001AD1079
Stipulation 8/31/01

Exhibit A
Accusation No. 05-2000-106555

BILL LOCKYER, Attorney General
of the State of California
JOSEPH P. FURMAN, State Bar No. 130654
Deputy Attorney General
for MIA PEREZ-CASTILLE
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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 05-2000-106555

SCOTT DAVID SAUNDERS, M.D.

A C C U S A T I O N

764 Mesa Vista Lane
Solvang, CA 93463

Physician and Surgeon's Certificate No. G 78847
Physician Assistant Supervisor's Approval
No. SA 25110

Respondent.

Complainant, Ron Joseph, alleges:

PARTIES

1. Ron Joseph ("complainant") brings this accusation solely in his official capacity as the Executive Director of the Medical Board of California ("Board"), Department of Consumer Affairs, State of California.

2. On or about May 11, 1994, the Medical Board of California issued Physician and Surgeon's Certificate Number G 78847 to Scott David Saunders, M.D. ("respondent"). At all times relevant to the charges brought herein, this license has been in full force and effect. Unless renewed, it will expire on September 30, 2001.

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1 not to exceed the reasonable costs of the investigation and enforcement of the
2 case."

3 8. Section 14124.12 of the Welfare and Institutions Code provides, in
4 pertinent part:

5 "(a) Upon receipt of written notice from the Medical Board of California, the
6 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,
7 that a licensee's license has been placed on probation as a result of a disciplinary action,
8 the department may not reimburse any Medi-Cal claim for the type of surgical service or
9 invasive procedure that gave rise to the probation, including any dental surgery or
10 invasive procedure, that was performed by the licensee on or after the effective date of
11 probation and until the termination of all probationary terms and conditions or until the
12 probationary period has ended, whichever occurs first. This section shall apply except in
13 any case in which the relevant licensing board determines that compelling circumstances
14 warrant the continued reimbursement during the probationary period of any Medi-Cal
15 claim, including any claim for dental services, as so described. In such a case, the
16 department shall continue to reimburse the licensee for all procedures, except for those
17 invasive or surgical procedures for which the licensee was placed on probation."

18
19 FIRST CAUSE FOR DISCIPLINE

20 (Gross Negligence)

21 9. Respondent is subject to disciplinary action under Code section 2234,
22 subdivision (b), in that he was grossly negligent in his care and treatment of patient D.A.¹ The
23 circumstances are as follows:

24 a. On or about December 26, 1997, patient D.A. became ill with
25 stomach cramps, nausea, and subsequent abdominal pain, vomiting, and diarrhea. On or about

26 _____
27 1. To protect privacy, the patient will be referenced herein by initials only. The patient's
28 full name will be disclosed to respondent upon a request for discovery pursuant to Government
Code section 11507.6.

1 December 30, 1997, respondent went to see the patient at her home. In his examination of the
2 patient, respondent pressed on the patient's stomach and took a urine sample. Respondent told
3 the patient there was no blood in her urine. Respondent also told the patient that her pain was
4 caused by a muscle pulled during coughing.

5 b. In the patient's chart note for that visit, there is no indication that
6 respondent took the patient's temperature or that he performed a history and physical. The chart
7 note indicates that the patient had abdominal muscle pain with acute gastroenteritis.

8 c. On or about January 1, 1998, the patient presented to the
9 emergency room at Santa Ynez Valley Cottage Hospital. The record prepared by the emergency
10 room physician indicated that the patient presented with complaints of abdominal cramps,
11 nausea, vomiting, and diarrhea for the prior three days. The emergency room physician's
12 assessment of the patient indicated abdominal pain etiology to be determined, questionable early
13 appendicitis versus other intra-abdominal pathology, dehydration, electrolyte imbalance,
14 hyponatremia, and hypokalemia. In the records, the emergency room physician further noted
15 that respondent was aware of the patient's condition, and the physician had fully discussed the
16 case and the patient's disposition with respondent. The emergency room physician ordered x-
17 rays and laboratory tests. The patient was discharged.

18 d. On or about January 2, 1998, the patient's husband contacted
19 respondent with complaints from the patient of black stools. Respondent advised the husband to
20 bring in the patient's stool specimen. The stool sample was tested and found to be negative for
21 occult blood. Respondent did not ask the husband to bring in the patient. Respondent did not re-
22 examine the patient. Respondent did not obtain any of the patient's emergency room records.

23 e. On or about January 8, 1998, the patient's husband telephoned
24 respondent. Respondent returned the telephone call on January 10, 1998. The patient's husband
25 told respondent that the patient was taking the medication Biaxin, an antibiotic which had been
26 prescribed for a family member. The patient requested this medication be refilled for herself
27 since it seemed to be helping her. Respondent agreed to fill a prescription for Biaxin for her.
28 Respondent was informed that, at this time, which was day 14 of the patient's illness, the patient

1 was still very sick and could hardly get out of bed.

2 f. On or about January 14, 1998, the patient was admitted to Santa
3 Ynez Valley Cottage Hospital by another physician. The patient had continuing complaints of
4 fever, nonproductive cough, and abdominal pains. The physician's assessment of the patient was
5 probable appendiceal abscess, history of mild asthma, and history of urethral stricture status post-
6 dilation. On or about January 15, 1998, surgery was performed. The surgery revealed that the
7 patient had a perforated appendix with multiple pelvic abscesses. Surgeons removed the terminal
8 ileum, cecum and ascending colon with side-side anastomoses ileum and transverse colon.

9 g. The patient continues to suffer profound debility bowel urgency
10 and diarrhea secondary to short colon. The patient has required monthly vitamin B-12 injections
11 secondary to removal of the terminal ileum.

12 h. Respondent is guilty of conduct constituting gross negligence in
13 his care of D.A. for the following reasons:

14 (1) When respondent made a house call in December 1997, he failed to
15 perform an adequate physical examination of patient D.A.

16 (2) When respondent made a house call in December 1997, he failed to
17 take the patient's temperature and failed to perform a pelvic and rectal
18 examination.

19 (3) Respondent failed to prepare adequate chart notes of his examination
20 of the patient in December 1997.

21 (4) When respondent made a house call in December 1997, he failed to
22 order laboratory tests.

23 (5) Respondent failed to obtain or to review the patient's medical records
24 from her visit to the emergency room on January 1, 1998.

25 (6) Respondent failed to recognize the significance of the January 1, 1998,
26 laboratory test that indicated the patient's WBC was 15.2 (N-10) with
27 marked left shift, 24% bands and 69% polys, which is indicative of a
28 bacterial rather than a viral infection.

1 (7) At the request of the patient, respondent refilled a medication, Biaxin,
2 an antibiotic which had been prescribed for a family member and which
3 had little value for treatment of "gastroenteritis."

4 (8) Respondent failed to recognize that, when the patient's family called,
5 the patient was 14 days into her illness, which was much too long for
6 gastroenteritis.

7 (9) Respondent failed to properly diagnose and timely treat appendicitis.

8 (10) Respondent failed to recognize that, in a differential diagnosis of
9 appendicitis, classical symptoms are not always present and there may be a
10 variety of presentations.

11 (11) Respondent failed to recognize that retrocecal appendicitis may be
12 present with diarrhea.

13 (12) Respondent failed to properly evaluate the patient's medical condition
14 and relied on the patient and her family to request medical care.

15 (13) Although respondent was apprised of the patient's severe debility, he
16 failed to consider further examination and evaluation of the patient.

17 18 SECOND CAUSE FOR DISCIPLINE

19 (Incompetence)

20 10. Respondent is subject to disciplinary action under Code section 2234,
21 subdivision (d), in that he acted incompetently in his care and treatment of patient D.A. The
22 circumstances are as follows:

23 a. The facts and allegations in paragraph 9, subparagraphs "a"
24 through "h " inclusive, are incorporated here by reference.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged and that, following the hearing, the Division of Medical Quality issue a decision:

- 4 1. Revoking or suspending Physician and Surgeon's Certificate Number G
5 78847, issued to respondent;
- 6 2. Revoking, suspending or denying approval of Scott David Saunders,
7 M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
- 8 3. Ordering respondent to pay the Division of Medical Quality the reasonable
9 costs of the investigation and enforcement of this case, and, if placed on probation, the costs of
10 probation monitoring;
- 11 4. Taking such other and further action as deemed necessary and proper.
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14 DATED: July 31, 2001.

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20 _____
21 RON JOSEPH
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant